



CALIFORNIA HIGH-SPEED RAIL AUTHORITY

## MEMORANDUM

**To:** Chairman Kopp and Authority Members      **Date:** June 26, 2009  
**From:** Mehdi Morshed, Executive Director  
**Subject:** Agenda Item 9 – American Recovery and Reinvestment Act

### DISCUSSION:

On June 17, 2009 the Federal Railroad Administration issued the Interim Program Guidance and the Notice of Funding Availability for the American Recovery and Reinvestment Act (ARRA). The purpose of this memo is to provide an overview of the guidelines and application process as well as receive direction from the Authority on the next steps.

### **Key Points in the Interim Guidance**

The interim guidance includes detailed information about award, eligibility, review and application requirements. On behalf of the Authority, the IMG team attended both the FRA announcement in Chicago and a subsequent industry briefing in Washington DC. Key points that emerged from the guidance and industry meetings are the following:

1. The guidance includes a pre-application form and comment period ending July 10, 2009.
2. Application dates have shifted to August 24, 2009 for Track 1 – Projects and October 2, 2009 for Track 2 – Corridors.
3. Guidance has also made explicit the time period for project completion under each track. Track 1 – Projects requires project completion within 2 years of obligation (with obligation being no later than September 30, 2010). And Track 2 – Programs allows for a 5-year construction completion period after obligation (or no later than September 30, 2017).
4. Guidance has identified, in detail, application component and priorities and will require both narrative and structured quantitative information.

### **Application Elements**

The interim guidance provides details on the elements for applications. While the specific forms are still under development, the guidance has provided the following insight on the elements and application information (Interim Guidance Section 4.3)

1. **Preapplication:** a form designed to help FRA assess the universe of projects and programs and to provide pre-applicants with any feedback necessary to complete applications. (Interim Guidance Section 4.3.1). Elements of the preapplication are:
  - a. **Project Description:** overview of the project's main features, type of proposed improvement, location, purpose, expected outcome, cost, ownership arrangements and the intercity Passenger Rail service(s) that will benefit from the project
  - b. **Project Development Status:** Status of key project development elements such as completion of the planning documents through which the project was identified, engineering work, and NEPA documentation; and

- c. **Applicant Eligibility:** applicant and key partners' legal, financial and technical capacity to carry out their proposed project
2. **Application Components:** As mentioned above, the guidance outlines both narrative and quantitative/structured responses. In addition to these responses, the Authority will be required to submit the following additional documentation:
  - a. **PE Materials:** demonstrate PE status
  - b. **NEPA Documentation:** demonstrate NEPA status
  - c. **Project Management Plan:** document the project management plan
  - d. **Stakeholder Agreements:** demonstrate the status of all stakeholder agreements including agreements with interstate partners, host railroads, etc
  - e. **Financial Plan:** demonstrate assumptions for Authority and other partners
  - f. **Service Development Plan:** The Authority should provide a Service Development Plan that covers the rationale, operating strategy and path to implementation.
  - g. **Economic Stimulus:** Authority is encouraged to provide information on job impacts under ARRA Implementing Guidance (April 3, 2009)
  - h. **Job Creation:** provide information on the promotion of short and long term impacts on job creation

### DOT/FRA Application Evaluation

The guidance outlines the DOT evaluation process that includes eligibility screening to the factors used for consideration in the DOT evaluation.

1. **Screening for completeness and eligibility** – to confirm applicant and project eligibility.
2. **Evaluation panel review process** -- using evaluation criteria as summarized below: (Interim Guidance Section 1.3.2 and Section 5.1). As the evaluation criteria are shown here below, the application documentation is directly linked to the evaluation criteria.

### Public Return on Investment

Evaluation Criteria	Example Factors	Key Documentation
1. Transportation Benefits	<ul style="list-style-type: none"> <li>▪ Improved Intercity Passenger Rail Service</li> <li>▪ Transportation network integration</li> <li>▪ Transportation safety benefits</li> </ul>	<ul style="list-style-type: none"> <li>▪ Service Development Plan (including business case; assessment of benefits and public investment)</li> <li>▪ Quantitative output measures (service – reliability, schedule, capacity; and transportation)</li> </ul>
2. Economic Recovery	<ul style="list-style-type: none"> <li>▪ Preserving and Creating Jobs</li> </ul>	
3. Other Public Benefits	<ul style="list-style-type: none"> <li>▪ Environmental Quality, Energy Efficiency, Livable Communities</li> </ul>	

### Project Success Factors

Evaluation Criteria	Example Factors	Key Documentation
4. Project Management Approach	<ul style="list-style-type: none"> <li>Organizational Capacity</li> <li>Track record of comparable projects</li> <li>Adequacy of engineering</li> <li>Progress towards NEPA compliance</li> </ul>	<ul style="list-style-type: none"> <li>Project management plan</li> </ul>
5. Sustainability of Benefits	<ul style="list-style-type: none"> <li>Thoroughness of management plan</li> <li>Sufficiency of safety and security planning</li> <li>Sufficiency of stakeholder agreements</li> <li>Reasonableness of financial estimates</li> <li>Availability of operating financial support</li> <li>Quality of planning process</li> </ul>	<ul style="list-style-type: none"> <li>Financial plan (capital and operating)</li> <li>Stakeholder Agreements</li> </ul>
6. Timeliness of Project completion	<ul style="list-style-type: none"> <li>Project Readiness</li> <li>Reasonableness of completion schedule</li> </ul>	<ul style="list-style-type: none"> <li>Project Schedule</li> </ul>

- 3. Final Review and Selection:** using selection criteria (as outlined in Interim Guidance Section 1.3.3) summarized here below focusing on regional diversity, use of new technology, promoting domestic manufacturing and developing partnerships.

Selection Criteria	Example Factors
<ol style="list-style-type: none"> <li>Region Location</li> <li>Innovation</li> <li>Partnerships</li> <li>Tracks and Round Timing</li> </ol>	<ul style="list-style-type: none"> <li>Geography and economic conditions</li> <li>Technology and industrial/capacity development</li> <li>Multi-State agreements</li> <li>Project costs and schedules</li> </ul>

### Comments on Interim Guidelines

Authority staff and all consultants to the Authority should fully review the interim guidelines and identify issues, questions and potential subject areas for potential comment to FRA by the July 10, 2009 deadline. Both positive comments and concerns requiring clarification and/or modification should be noted.

### RECOMMENDATION:

Since the enactment of the American Recovery and Reinvestment Act (ARRA) Authority staff has been closely evaluating the viability of individual projects within Phase 1 (Los Angeles/Anaheim to Merced to San Francisco) of the high-speed train program. Over the past few months the board has heard a number of presentations on the ARRA program and has discussed the Authority's federal application approach. Initially the Authority staff had identified a number of individual "shovel ready" projects that would benefit the HST project but would not be in the jurisdiction of the

Authority. As more information became available regarding the ARRA program, and the Authority refined the Phase 1 schedule, during that refinement it was determined that two corridors were eligible to meet the deadlines set by FRA for the ARRA funds. At the May 7, 2009 Authority meeting the board approved the following resolution:

Resolved, that the staff's draft approach and plan of action for the American Recovery and Reinvestment Act application contained in the Executive Director's memorandum, dated April 30, 2009 [attached], is approved, except that staff is directed to include both the Los Angeles-Anaheim and San Francisco-San Jose corridors in the Authority's application for ARRA funding, based on the Board's view that all conditions precedent to qualifying both corridors for ARRA funding can be satisfied in time to meet the September 30, 2012 obligation deadline.

Since that board action the Authority staff has had an opportunity to meet with all the regional consultants to review and tighten up their schedules. Based on the revised schedule it has been determined that the Merced to Bakersfield section will have achieved a ROD/NOD in time to meet the September 30, 2012 obligation deadline for the ARRA funds. The previous board action (May 7, 2009) allowed for staff to pursue ARRA funding for the "negotiation of right-of-way including the maintenance facility under the programmatic document without jeopardizing the EIR/EIS project level process", however with the completion of the project-level environmental process scheduled in early 2012 the Authority staff recommend that the board include the Merced to Bakersfield corridor in the Pre-Application for ARRA funds.

The ARRA Pre-Application provides the Authority the opportunity to present the universe of projects/programs that could be eligible for the ARRA funds. Due to the size of the California project our needs for federal funding far outweighs the \$8 billion made available via ARRA. Between the submittal of the Pre-Application (July 10, 2009) and the Final Application (August 24, 2009 Track 1 and October 2, 2009 for Track 2) more details will be developed for each of the sections and the Authority will need to go through a prioritization process prior to final application submittal.

California will be submitting a single application through the Department of Transportation (Caltrans); the Authority will be preparing the HST section of the pre-application and final application for inclusion in the statewide ARRA submittal. Based on the assessment of the HST funding needs and the schedule to complete the environmental work, staff recommends that the Authority apply for funding under "Track 1 – Projects" and "Track 2 – Programs".

The Interim Program Guidance definition of "Track 1 – Projects" as it applies to the California project is as follows: (b) completion of project-level NEPA and Preliminary Engineering to prepare projects for Final Design/construction grants that may be available under future solicitations. Based on that definition the Authority staff recommends pursuing Track 1 funding for the following corridors: Los Angeles – San Diego, Los Angeles – Palmdale, Palmdale – Bakersfield, Merced – San Jose, Sacramento – Merced, and Altamont. These funds would be used for the completion of the preliminary engineering and environmental work as well as the associated Program Management and related costs for these corridors, estimated to cost \$400,000,000.00.

The majority of the Authority's ARRA application will fall into "Track 2 – Programs". Track 2 is aimed at developing new High-Speed Rail corridor services and Intercity Passenger Rail services, or substantial upgrades to existing corridor services. Based on this definition and the deadlines set by

FRA (obligation of funds by September 30, 2012 with construction completion by September 30, 2017) the following sections “Programs” could be eligible for ARRA funding: Los Angeles – Anaheim, Merced – Bakersfield, and San Francisco – San Jose. The following table identifies the estimated cost to complete the preliminary engineering, project-level environmental work, mitigation, final design and construction (does not include vehicles):

<b>Section</b>	<b>Total Cost</b>
Los Angeles – Anaheim	\$3,340,000,000.00
Merced – Bakersfield	\$6,913,000,000.00
San Francisco – San Jose	\$5,215,000,000.00
<b>Total</b>	<b>\$15,468,000,000.00</b>

Both Track 1 and Track 2 are eligible for 100% federal funding, however staff recommends the Authority commit to matching ARRA funds with state and local funding.

As stated earlier this is the universe of HST Projects/Programs that could be eligible for ARRA funding given the timelines specified by the FRA in the Interim Program Guidance. Authority staff will be preparing a Pre-Application for submittal to FRA by July 10, 2009. Between the submittal of the Pre-Application and the Final Application Authority staff will be developing more detailed information regarding Track 1 Projects and Track 2 Programs for board discussion and direction. The Final Application will be only for a portion of the Track 1 and Track 2 Projects/Programs identified above and will be tailored to match potential ARRA funds. The Authority staff will be working with FRA in the interim regarding the preparation of the final application.